NEWS

News media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: http://www.fcc.gov
ftp.fcc.gov

Federal Communications Commission
1919 - M Street, N.W.
Washington, D.C. 20554

Report No. CC 98-45 COMMON CARRIER ACTION December 17, 1998

FCC Adopts New Anti-Slamming Rules and Unveils Further Measures to Protect Consumers from Phone Fraud; Slammed Consumers Relieved From Paying Phone Charges

(CC Docket No. 94-129)

The FCC today adopted new rules that will relieve consumers who have had their telephone service provider changed without their consent, a practice known as "slamming," from paying charges imposed by the unauthorized carrier for up to 30 days after being slammed. In addition, the Commission strengthened the verification procedures used to confirm telephone carrier switches and broadened the scope of its anti-slamming rules to further protect consumers. Also today, the Commission unveiled a series of new initiatives that will make it quicker and easier for consumers to file complaints about slamming and other telephone-related fraud, as well as speed resolution of consumer complaints. Highlights of today's rules are as follows:

Consumer Liability

The Commission agreed with many state commissions and consumer protection organizations, including the National Consumers League, National Association of Attorneys General, and the Virginia Corporation Commission, that absolving slammed consumers of liability for charges will discourage slamming by taking the profit out of this fraudulent practice. In so doing, the Commission was careful to balance the interests of consumers and the industry. A 30-day absolution period provides incentive for consumers to review their phone bills carefully and promptly, and it provides incentive for carriers that legitimately sign up customers to verify switches properly so as to have solid evidence of the change.

Under the new rules, any carrier that a consumer calls to report being slammed must inform the consumer that he or she is not required to pay any slamming charges incurred for the first 30 days after the unauthorized switch. If a consumer *does* pay the unauthorized carrier, however, the authorized carrier may recoup from the unauthorized carrier any slamming charges collected by the latter, in which case the authorized carrier is required to refund to the consumer any amount paid in excess of what the consumer would have paid absent the slam. Unauthorized carriers are also required to pay other expenses, such as reasonable billing and collection costs, including attorneys' fees, incurred by the authorized carrier in collecting charges from the

NEWS

News media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: http://www.fcc.gov
ftp.fcc.gov

Federal Communications Commission
1919 - M Street, N.W.
Washington, D.C. 20554

unauthorized carrier.

The mechanisms formulated in today's decision rely on the authorized carrier to determine whether its subscribers are slammed and provide appropriate relief. The Commission found that this approach forms a necessary baseline for ensuring that consumer problems arising from slamming are addressed adequately. The Commission recognized, however, that other approaches, such as a dispute resolution mechanism involving a third party administrator, may have merit. A third party administrator would provide consumers with one point of contact to resolve slamming problems, and it would benefit carriers by having a neutral body to resolve disputes regarding slamming liability. Accordingly, the Commission will entertain requests for waivers of the liability provisions for carriers that can work out an acceptable alternative.

Verification Methods

The Commission modified the methods by which a carrier can fulfill its obligation to verify consumers' authorizations to change their telephone service providers. In particular, the Commission eliminated the "welcome package" as a verification method. Under that method, a carrier that signs up a customer mails to the customer a package containing a postcard that the customer has 14 days to mail back if he or she wishes to cancel the change. The Commission noted that this method has been subject to abuse by unscrupulous carriers, and consumers should not have to take affirmative action to avoid being slammed.

As a result, there are now three acceptable methods to verify carrier changes: a consumer signature on an authorization form, known as a Letter of Agency; an electronic authorization, usually resulting from a customer-initiated call to toll-free number; and verification by an independent third party. Today's Order applies these verification methods to carrier switches that result from in-bound calls, thus providing consumers who *initiate* calls to carriers the same protection given to consumers who *receive* telemarketing calls. The Commission also applied the verification rules to all changes made in telecommunications carriers, including local carriers. (An exception was made, however, for wireless carriers since slamming is not currently a problem in that area.) In addition, the Commission applied the verification methods to requests for preferred carrier freezes, which provide an additional safeguard against slamming by requiring the local telephone carrier that executes a switch to confirm the switch with the customer. The Commission further required that solicitations for preferred carrier freezes be clear and explain to the consumer how such a freeze may be lifted. The Commission explained that, although preferred carrier freezes may protect consumers against slamming, the freezes may also be subject to anticompetitive abuses. The new rules are intended to address these concerns in a manner that protects consumer choice. The Commission also noted that its verification methods do not preempt state law; states must use these verification methods at a minimum but may add additional verification procedures for intrastate carrier changes.

The new slamming rules will go into effect 70 days after publication in the Federal Register. The liability provisions, however, go into effect 90 days after publication.

Additional Proposals

The Commission asked for comment on further methods to take the profit out of slamming, including a proposal that would enable both the authorized carrier and the consumer to recover any charges paid to the unauthorized carrier. Under such an approach, for example, an unauthorized carrier that collects $30 from a consumer would be required to pay $60 to the authorized carrier, who would then refund $30 to the consumer. Other issues the Commission sought comment on include how carrier changes made by consumers using the Internet should be verified, whether carriers should submit to the FCC a report on the number of slamming complaints they receive, and a proposal requiring all carriers to register with the Commission.

Consumer Network Initiatives

The Common Carrier Bureau's Enforcement Division also today announced its new Consumer Network project, a broad plan to provide consumers with tools to better protect themselves from telephone-related fraud, including slamming, as well as to provide consumers an easy means to file complaints.

The Consumer Network will be implemented in three stages. First, beginning in January 1999, a new web site will allow consumers to file complaints electronically. (At present, all consumer complaints must be sent in writing to the Commission.) The new web site will also contain a variety of consumer protection information to help the public become aware of telephone-related fraud and make more informed choices in the telecommunications marketplace. The second phase of the Consumer Network will permit consumers to file complaints over the telephone, including calls placed to the FCC's toll-free number. The third phase involves establishing an electronic interface with carriers. This interface should improve industry response time to complaints as well as speed FCC resolution of complaints by creating a seamless paperless environment, from the filing of a complaint to the resolution of the dispute. The final two phases are expected to be complete within nine months.

Slamming is the FCC's largest area of telephone-related complaint. Thus far in 1998, the Commission has handled nearly 20,000 such complaints. The Commission has also this year proposed forfeitures in connection with slamming that total nearly $13 million.

Action by the Commission December 17, 1998, by Second Report and Order and Further Notice of Proposed Rulemaking (FCC 98-334). Chairman Kennard, Commissioners Ness and Tristani, with Commissioner Furchtgott-Roth dissenting, Commissioner Powell concurring in part and dissenting in part, and Commissioners Ness, Furchtgott-Roth, Powell, and Tristani each issuing a separate statement.

-FCC-

News media contact: Rochelle Cohen at (202) 418-0253.
Common Carrier Bureau contact: Anita Cheng at (202) 418-0996.

TTY: (202) 418-2555.